



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 24, 2006

Ms. Maleshia B. Farmer  
Assistant City Attorney  
The City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2006-02928

Dear Ms. Farmer:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 244807.

The City of Fort Worth (the "city") received a request for a specified police report. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the submitted information relates to a pending criminal investigation and that the release of this information at this time would interfere with the investigation and possible prosecution of the case. Based upon these representations, we conclude that the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. See

*Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See *Houston Chronicle*, 531 S.W.2d at 186-87. Basic information under section 552.108(c) includes the identity of the complainant and a detailed description of the offense. See Open Records Decision No. 127 at 3-4 (1976) (summarizing information deemed public by *Houston Chronicle*). We note that the complainant in the submitted offense report was the victim of an alleged aggravated sexual assault. The identity of a sexual assault victim must be withheld from the public under section 552.101 of the Government Code in conjunction with common law privacy. See *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identities of witnesses to and victims of sexual harassment were highly intimate or embarrassing information that was not a matter of legitimate public interest); Open Records Decision Nos. 393 (1983), 339 (1982). However, the requestor in this instance is the victim of the alleged aggravated sexual assault and has a special right of access to information that must otherwise be withheld from public disclosure to protect the victim's privacy. See Gov't Code § 552.023.<sup>1</sup> Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup> We note that witness information is not considered to be basic information and therefore may be withheld under section 552.108 of the Government Code. The city has the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days.

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<sup>1</sup>See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987). Should the city receive another request from a person who would not have a special right of access to the victim's private information, the city should resubmit this same information and request another decision. See Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001).

<sup>2</sup>As this ruling is dispositive we need not address your remaining argument.

*Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

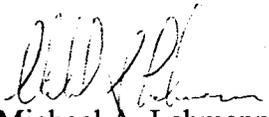
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Lehmann  
Assistant Attorney General  
Open Records Division

MAL/sdk

Ref: ID# 244807

Enc. Submitted documents

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(w/o enclosures)